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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20500

April 28, 1983

MEMORANDUM FOR JAY KEYWORTH

THROUGH: VIC REIS *Vic*

FROM: JIMMEY MORRELL

SUBJECT: NSDD on Commercialization of Expendable
Launch Vehicles (ELVs)

By memorandum of April 22, 1983, Judge Clark asked for comments on the draft NSDD and Implementing Guidelines on ELV commercialization (attachment 1). As you are aware, we actively participated in the development of the report and drafting of the NSDD.

The NSC staff made two changes to the draft policy prior to circulating it for formal agency comment. The first concerned the designation of the Department of State as the chair of an interim working group to determine further actions on the nature of government oversight. We view this change as inconsequential (page 2, paragraph IV, subparagraph 2). The second change was an addition of a sentence in the second paragraph of page 2 ostensibly designed to encourage competition among systems and provide equitable treatment to all commercial operators.

While we do not disagree with either concept, we have been told by the NSC staff that the actual intent is to encourage a competitive bid process for government-owned equipment, tooling, and facilities. This may be appropriate in select cases but applied across the board could prove detrimental to the commercialization effort and potentially eliminate the benefits to the USG. Fundamentally, our objection is that the sentence is ambiguous in terms of intent and more importantly the legal obligations it places on USG actions related to commercial ELV operations. We have worked with legal counsel and the NSC staff to devise alternate wording (attachment 2). The language and framework we are suggesting

-2-

for USG actions are drawn from existing Administration policy in NSDD-50, Space Launch Assistance. The new sentences emphasize freemarket competition versus implied competitive bidding and adds broad qualifications concerning any government obligation to conduct a competitive bid process for the sale or lease of equipment or facilities.

There is one other area in which you have noted concern. That area centers on shuttle pricing and its relationship to commercialization. The current wording states the USG must consider the effects of STS pricing and that the price will be based on the best strategy to satisfy the economic, foreign policy, and national security interests. This does not satisfy OMB desires for a firm pricing policy in relation to U.S. commercial ELVs. In the working group forum, we could not obtain stronger wording nor do we necessarily believe it is possible to obtain stronger wording in an IG or SIG (Space) meeting unless OMB drives the issue. In our comments we have noted a concern that the price of a shuttle flight for commercial or foreign payloads must not be allowed to unfairly compete with U.S. ELVs.

For your information NASA and OMB comments on this issue are the most significant. NASA and OMB want NASA to be appointed as the chair of the interim working group and the single point of contact with industry. We disagree with that approach simply on the grounds of conflict of interest. OMB also wants to fix a shuttle price as it relates to commercial and foreign payloads.

Recommend you sign attachment 3 which forwards our comments to Judge Clark. Our comments also suggest that this issue be discussed at the scheduled May 3, 1983 IG (Space) meeting.

Attachments:

- 1) NSC memorandum of April 22, 1983
- 2) Alternate wording
- 3) Memorandum to Judge Clark

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY**

WASHINGTON, D.C. 20500

April 28, 1983

MEMORANDUM FOR W. P. CLARK

FROM: G. A. KEYWORTH

SUBJECT: NSDD on Commercialization of Expendable
Launch Vehicles (ELVs)

As requested, I have reviewed the draft NSDD on commercialization of ELVs and agree with its content and the overall policy direction. There are, however, two areas of concern. These relate to the sentence added on page 2 of the draft NSDD concerning encouragement of competition among various systems and equitable treatment of all commercial operators. While I agree with both concepts, the added sentence is very ambiguous in terms of intent and the potential legal obligations and restrictions it could place on the USG actions related to ELV commercial operators. For example, equitable treatment and competition could require that the sale or lease of all government-owned equipment, tooling, and facilities be on a competitive bid basis. Applied across the board this process could be detrimental to the commercialization efforts and eliminate the benefits to the United States.

Attached is suggested alternate wording designed to clearly focus the issue. The emphasis is placed on freemarket competition among ELV systems and qualification concerning government obligations to conduct a competitive bid process for the sale or lease of equipment or facilities is provided. The suggested language is drawn from current Administration policy in NSDD-50, Space Launch Assistance.

The second area of concern relates to the reference to shuttle pricing policy. If ELV commercialization is to become a reality, then the price of a shuttle flight for a commercial or foreign payload must be established at a level that does not unfairly compete with ELV systems. This issue is separate, and it should remain separate, from the price for a USG payload for a shuttle flight. At present the policy does not adequately recognize the need to set a

-2-

shuttle price for commercial and foreign flights that does not preclude ELV commercialization.

Because of the importance of these issues and those I understand will be raised by other agencies, I recommend that this subject be discussed at the May 3, 1983 IG (Space) meeting and if necessary at a special SIG (Space) meeting.

Attachment

Attachment

Page 2, Paragraph 2: Change as follows:

The U. S. Government will encourage free market competition among various systems and concepts within the U. S. private sector. Consistent with the U. S. economic, foreign policy and national security interests, the USG will provide equitable treatment for all commercial launch operations for the sale or lease of equipment and facilities.